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VIA ECF

July 23, 2020

The Honorable Lorna G. Schofield
United States District Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: *Nypl, et al. v. JPMorgan Chase & Co., et al.*, No. 1:15-CV-09300 (LGS)

Dear Judge Schofield:

Pursuant to Rule I.D.3 of Your Honor's Individual Rules and Procedures for Civil Cases, we write on behalf of defendants Bank of America Corporation, Bank of America, N.A., JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A., in support of plaintiffs' letter motion to seal their response letter filed on July 21, 2020 (the "Response Letter"). ECF Nos. 600, 601.

In the Response Letter, plaintiffs quote directly from and summarize three declarations that defendants served in response to an interrogatory and designated as highly confidential under the Stipulation and Order of Confidentiality dated November 13, 2017. ECF No. 249.¹ Your Honor previously granted the parties' request to seal references to these same declarations in the parties' July 10, 2020, joint letter. ECF No. 597.

Each of the declarations and the exhibits thereto discloses confidential, proprietary information concerning how each bank sets retail foreign exchange rates for the purchase of physical foreign currency at its retail branches in the United States. Because the process used to set these rates reflects confidential pricing information and highly sensitive business strategy, defendants respectfully request that it not be disclosed publicly. The proposed redactions in the Response Letter are narrowly tailored to ensure that the bulk of the Response Letter is publicly available on the docket.

As the Court knows, the Second Circuit has recognized that the right of public access to judicial documents is not absolute and "the court must balance competing considerations against it." *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). For instance, documents may be sealed where "closure is essential to preserve higher values and is narrowly tailored to serve that interest." *Id.*; *see also Nixon v. Warner Commc'ns., Inc.*, 435 U.S. 589, 599 (1978) ("[T]he decision as to access is one best left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case."). *Cf. Burke v. Glanz*, No. 11-cv-720, 2013 WL 211096, at *4 (N.D. Okla. Jan. 18, 2013) ("Courts

¹ These include the declarations of Bohdan Kunyk and Jo-Anne E. Rivet, served by defendant Bank of America, and the declaration of David C. Drago, served by defendant JPMorgan.

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should be wary of modifying a protective order where a party has complied with discovery in reliance on the agreement.”).

Defendants believe that the proposed redactions in the Response Letter strike the proper balance between public access to court documents and protection of confidential business information, and defendants respectfully request that the Court grant permission to file plaintiffs’ July 21 Response Letter in redacted form on ECF and in unredacted form under seal.

Respectfully submitted,

/s/ Jeffrey J. Resetarits

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